

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

Cril. Rev. P. No. 2 of 2017

R. Maringchan Maring, 25 years, S/o R. James Maring, Koijam Village, P.O. Pallel & P.S. Kakching, Chandel District, Manipur.

...Accused No. 1/Petitioner

-Versus-

The State of Manipur

.... Respondent

BEFORE
HON'BLE THE CHIEF JUSTICE MR. SIDDHARTH MRIDUL

For the Petitioner	::	Mr. N. Mahendra, Adv.
For the Respondent	::	Mr. RK Umakanta, PP
Date of Hearing and reserving Judgment & Order	::	21.12.2023
Date of Judgment & Order	::	22.04.2024

JUDGMENT AND ORDER
(CAV)

1. The present criminal revision petition, instituted by R. Maringchan Maring (hereinafter referred to as Revisionist), under the provision of Section 397 of the Code of Criminal Procedure, 1973 (hereinafter referred to as Cr.P.C.), seeks to assail the order dated 12.02.2016 rendered by the learned Sessions Judge, Thoubal, Manipur, in Sessions Trial Case No. 4/2015 arising out of

FIR No. 34(3) 2014 Kakching Police Station under Section 306/498-A/34 IPC whereby the charges under the aforementioned sections were directed to be framed against him.

2. The facts, as are necessary for the adjudication of the controversy in the present case in the proper perspective are briefly encapsulated as follows :

- a) that admittedly, Smt. Salam Ichal Devi (hereinafter referred to as the deceased) who was the daughter of Sapam Tomba Singh (hereinafter referred to as the complainant) was married to the Revisionist in the month of December, 2013; who allegedly, received a sum of Rs. 30,000/- (rupees thirty thousand) as dowry;
- b) that on the 7th of March, 2014, at about 7:30 p.m., the complainant filed a petition with the O.C., PS Kakching, to the effect that, on the same day, at about 6:30 p.m., his daughter (the deceased wife of the Revisionist) had committed suicide by hanging with a rope inside her bedroom of her husband's house at Koijam Village;

- c) that the complainant clearly and unequivocally asserted that, immediately after his son-in-law, the Revisionist, gave him the news that the deceased had died by hanging in her bedroom, he went there and inspected the same and found that his daughter had in fact died by hanging;
- d) the complainant thereupon, made a report to Kakching Police Station, in connection with the death of his daughter, seeking further enquiry in to the matter, as above stated;
- e) A U.D. Case No. 2/2014 KCG PS dated 7th March, 2014 was taken up and investigated by the I.O. of the case Sub-Inspector S. Rishikanta Singh of Kakching Police Station;
- f) During the investigation, it was revealed that the dead body of the victim, was found lying on her bed having been taken down by the revisionist along with his family members;
- g) In view of the circumstances, since foul play was suspected, a regular case, FIR No. 34(3)2014 KCG PS u/s 306/498-A/34 IPC was registered

and endorsed to the said I.O. for further investigation;

- h) The said I.O. examined 21 witnesses;
- i) Subsequently, the case was transferred to the SDPO P. Tenden Singh, the second I.O., and he examined 3 (three) more witnesses;
- j) It is the Prosecution's case that during their interrogation, the Revisionist and his co-accused R. James Maring, the former's father, allegedly admitted to their involvement in the crime;
- k) It is further the Prosecution's case that there was sufficient circumstantial evidence to link the accused persons to the aforesaid stated crime;
- l) In this behalf, it is asseverated on behalf of the Prosecution that, the statements of the neighbours clearly revealed that they heard frequent quarrels between the deceased and the accused persons;

- m) The neighbours collectively *interalia* stated that, after quarrelling with her husband, the Revisionist, the victim left for her parental home and narrated the whole story of her torture by her husband, after consuming intoxicating drugs as well as by her father-in-law;
- n) The victim also narrated to her parents and neighbouring villagers that, she was beaten by her husband causing injury on her abdomen and resulting in miscarriage of her pregnancy and profuse bleeding;
- o) The statements further more reflected that when the victim was at her parental home, the Revisionist, came and forcibly took her away assuring her mother that the victim would be medically examined at Jivanlata Hospital;
- p) The mother of the deceased, however, stated that neither the Revisionist nor the victim were found at the Hospital by her and she came back home after waiting for them at the said Hospital;

- q) The mother of the victim further stated that on the same day i.e. 7th March, 2014 at about 6:30 pm, she was informed that her daughter had committed suicide in her bedroom whereupon she along with her family members visited the spot and found that the same was, in fact, unfortunately true;
- r) The postmortem report relied upon by the Prosecution indicates that, death of the deceased was caused by asphyxia from hanging and further opined to be suicidal in nature;
- s) Since the Prosecution found *prima facie* material against the accused persons including the Revisionist, charge sheet under Section 306/498/498-A/34 IPC was caused to be filed.

3. The learned trial Court having considered the material on the record, including the statements of the witnesses and having heard learned counsel appearing on behalf of the parties, framed charges for the commission of offences under Sections 306 and

498-A IPC against the Revisionist vide the impugned order dated 12th February, 2016.

4. Aggrieved by the said order framing charges against the Revisionist, the latter has assailed the same before this Court as above mentioned.

5. Learned counsel assails the impugned order by contending that, there is no material/evidence to show a *prima facie* case for framing charges and proceeding further against the Revisionist; as the material attracting charges under Section 306/498-A IPC against him are conspicuous by their absence in the present case.

6. In support of his submissions, learned counsel appearing on behalf of the Revisionist places reliance on the following decisions :-

- (i) ***R. Mohan v. State [Criminal Appeal No. 611 of 2011];***
- (ii) ***(2002) 5 SCC 371, Sohan Raj Sharma v. State of Haryana [Criminal Appeal No. 1464 of 2007] and Kishori Lal v. State of MP [Criminal Appeal No. 1115 of 1999];***
- (iii) ***Dilawa Babu Kurane v. State of Maharastra : (2002) 2 SCC 135;***

- (iv) Suresh v. State of Maharashtra: AIR 2001 SC 1375;**
- (v) State of MP v. Mohanlal Soni : AIR 2000 SC 2583**
- (vi) Shyam Sunder Sharma v. State : 2002 CrLJ 517
(Del)**

7. Per contra, learned PP, appearing on behalf of the State would submit that there is sufficient material/evidence for proceeding against the Revisionist, for abetting the suicide of his wife, the deceased. The learned PP would also submit that the Revisionist had treated the deceased with cruelty, immediately prior to the sad occurrence of the latter having committed suicide by hanging with a rope in her own bedroom.

8. In order to buttress his contentions, the learned PP has drawn attention of this Court to the statements recorded under Section 161 Cr.P.C. of the witnesses and particularly those of the father and mother of the deceased to the effect that, the Revisionist and the deceased quarreled frequently with each other subsequent upon the former consuming intoxicating drugs. In addition, attention is invited to the statements of the mother to assert that the deceased told the former on the morning of the fateful day that she had not eaten food the previous night and that the Revisionist also

beat her resulting in bleeding and suspected miscarriage of their unborn child.

9. In addition, the statement of the mother revealed that a month after the deceased married the Revisionist, the latter consumed SP intoxicating tablets and that her in-laws ill-treated her and further said that she could not stay at her in-laws' house.

10. Lastly, the statement of the mother of the deceased is relied upon to the effect that ten days after the deceased eloped with the Revisionist and married him, there was a feast and dowry was given to the latter.

11. The learned PP also relies upon the statement of the complainant; the father of the deceased; to asseverate that the deceased was not happy living with the Revisionist who consumed SP tablets and had taken away from the deceased two pieces of *phanek (mekhala)*, to sell off for buying drugs. The complainant's statement is further pressed into service to show how the Revisionist physically beat the deceased leading to profuse bleeding and termination of her pregnancy.

12. The PP would also rely on the statement of one S. Latanthoi Devi — a childhood friend of the deceased — to urge that she was informed in confidence repeatedly by the victim that she

had been tortured by the Revisionist due to his habit of drug addiction and that she had suffered miscarriage because of the physical assault on her belly by the Revisionist on the fateful day.

13. The learned Sessions Judge having considered the materials on record and heard learned counsel appearing on behalf of the parties, observed as follows :-

*“7. In order to frame charge against the accused, the prosecution should establish the presence of the essential ingredients of the offence. If such materials are not present, it would be proper for the Court to discharge the accused. In **Amit Kapoor vs. Ramesh Chander : (2012) 9 SCC 460**, the Apex Court laid down the principles and procedures to be followed while framing of charge and held as below :*

“17. Framing of a charge is an exercise of jurisdiction by the trial court in terms of Section 228 of the Code, unless the accused is discharged under Section 227 of the Code. Under both these provisions, the court is required to consider the ‘record of the case’ and documents submitted therewith and, after hearing the parties, may either discharge the accused or where it appears to the court and in its opinion there is ground for presuming that the accused has committed an offence, it shall frame the charge. Once the facts and ingredients of the Section exists, then the Court would be right in presuming that there is ground to proceed against the accused and frame the charge accordingly. This presumption is not a presumption of law as such. The satisfaction of the court

in relation to the existence of constituents of an offence and the facts leading to that offence is a sine qua non for exercise of such jurisdiction. It may even be weaker than a prima facie case. There is a fine distinction between the language of Sections 227 and 228 of the Code. There is a fine distinction between the language of Sections 227 and 228 of the Code. Section 227 is expression of a definite opinion and judgment of the Court while Section 228 is tentative. Thus, to say that at the stage of framing of charge, the Court should form an opinion that the accused is certainly guilty of committing an offence, is an approach which is impermissible in terms of Section 228 of the Code.

19. At the initial stage of framing of a charge, the court is concerned not with proof but with a strong suspicion that the accused has committed an offence, which, if put to trial, could prove him guilty. All that the court has to see is that the material on record and the facts would be compatible with the innocence of the accused or not. The final test of guilt is not to be applied at that stage.

8. In **Sonu Gupta vs. Deepak Gupta: (2016) 3 SCC 424**, the Apex Court held as below:

“9. It is also well settled that cognizance is taken of the offence and not the offender. Hence at the stage of framing of charge an individual accused may seek discharge if he or she can show that the materials are absolutely insufficient for framing of charge against that particular accused. But such exercise is required only at a later stage, as indicated above and not at the stage of taking cognizance and summoning the accused on the

basis of prima facie case. Even at the stage of framing of charge, the sufficiency of materials for the purpose of conviction is not the requirement and a prayer for discharge can be allowed only if the court finds that the materials are wholly insufficient for the purpose of trial. It is also a settled proposition of law that even when there are materials raising strong suspicion against an accused, the court will be justified in rejecting a prayer for discharge and in granting an opportunity to the prosecution to bring on record the entire evidence in accordance with law so that case of both the sides may be considered appropriately on conclusion of trial.”

9. From the above case laws, it is seen that the necessary ingredients of the offences charged have to be present and only then it would be proper for the Court to proceed further by framing charge against the accused as held in the case of **Amit Kapoor (supra)**, the materials may be even weaker than the prima facie. However, presence of all ingredients is *sin qua non* for framing charge. Whether the materials would lead to conviction or not and the possibility of alternate version are to be examined minutely during the trial and not at the stage of framing of charge. In view of the above mentioned principle, framing of charge to be considered and the materials can be examined for a limited purpose.

10. In the present case, there is no against the accused No 2 for proceeding further except for a mere mentioning of his name by the mother of the deceased. Hence, he is discharged from all charges and his bail bonds are discharged.

11. *The statements of the witnesses specially the parents and friends of the deceased clearly suggest that the accused No.1. treated the deceased with cruelty. He would beat her often and she was compelled to leave for her matrimonial home frequently. He used to steal the cloths and other things of the deceased for her consumption for drug. It cannot be termed as mere neglect as projected by the Id. counsel for the accused. The harassment and frequent assault caused the miscarriage to the deceased and even after assuring to the parents of the deceased for treatment in hospital, the accused No.1 did not keep his words. Subsequently, the deceased committed suicide by hanging unable to bear the torture any longer. The chains of incidents are so closely related to drive the deceased for committing suicide. It would be all together a different aspect that these materials would be sufficient for conviction or not, as long as the ingredients of the offences are made out. This is principle laid down in the decisions of **Amit Kapoor (supra)** and **Sonu Gupta (supra)**. As there are materials for the offences u/s 306 and 498-A IPC, charge has to be framed against the accused No.1 under these two heads. However, no materials are found for the offence u/s 498 IPC and Section 34 IPC is not attracted against single accused.*

12. *In result, accused No.2 is discharged from all offences and charges u/s 306/498-A IPC are to be framed against accused No.1.*

Announced in open court.”

14. In order to appreciate the submissions made on behalf of the Revisionist as well as for the effective adjudication of the

issue that arises for consideration in the present case to the effect whether there exists a *prima facie* case for framing charges; it would be appropriate to refer to the case law qua the framing of charges as well as the revisional jurisdiction of the Court while dealing with the framing of charges.

15. In Superintendent & Remembrancer of Legal Affairs, West Bengal v. Anil Kumar Bhunja (supra), the Hon'ble Supreme Court whilst relying on the dictum in State of Bihar v. Ramesh Singh reported as (1977) 2 SCC 194, upheld the order on charges; and observed that the positive and negative facts, in conjunction with other subsidiary facts, appearing, expressly or by implication, from the materials which were before the Magistrate at that initial stage, were sufficient to show that there were grounds for presuming that the accused-respondents had committed offences under the relevant provisions of the Arms Act, 1959.

16. In Union of India v. Prafulla Kumar Samal, (supra), the Hon'ble Supreme Court advertent to the conditions enumerated in Sections 227 and 228 of the CrPC, enunciated the following principles:

"(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out

whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial."

17. In *State of Maharashtra v. Som Nath Thapa*, (supra) it has been observed as follows:

"30. In *Antulay case* [*R.S. Nayak v. A.R. Antulay*, (1986) 2 SCC 716 :

1986 SCC (Cri) 256] *Bhagwati, C.J.*, opined, after noting the difference in the language of the three pairs of sections, that despite the difference there is no scope for doubt that at the stage at which the court is required to consider the question of framing of charge, the test of 'prima facie' case has to be applied. According to *Shri Jethmalani*, a prima facie case can be said to have been made out when the evidence, unless rebutted, would make the accused liable to conviction. In our view, a better and clearer statement of law would be that if there is ground for presuming that the accused has committed the offence, a court can justifiably say that a prima facie case against him exists, and so, frame a charge against him for committing that offence.

31. Let us note the meaning of the word 'presume'. In *Black's Law Dictionary* it has been defined to mean 'to believe or accept upon probable evidence'. In *Shorter Oxford English Dictionary* it has been mentioned that in law 'presume' means 'to take as proved until evidence to the contrary is forthcoming', *Stroud's Legal Dictionary* has quoted in this context a certain judgment according to which 'A presumption is a probable consequence drawn from facts (either certain, or proved by direct testimony) as to the truth of a fact alleged.' In *Law Lexicon* by *P. Ramanatha Aiyar* the same quotation finds place at p. 1007 of 1987 Edn.

32. The aforesaid shows that if on the basis of materials on record, a court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the court were to think that the accused might have committed the offence it can frame the

charge, though for conviction the conclusion is required to be that the accused has committed the offence. It is apparent that at the stage of framing of a charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage."

(emphasis in original. Emphasis also supplied herein by underlining.) CRL.REV.P. 262/2016, CRL.REV.P. 263/2016, CRL.REV.P. 264/2016 & CRL.REV.P. 265/2016

18. In State of M.P. v. S.B. Johari (supra), the Hon'ble Supreme Court rendered the following observations:

"4. In our view, it is apparent that the entire approach of the High Court is illegal and erroneous. From the reasons recorded by the High Court, it appears that instead of considering the prima facie case, the High Court has appreciated and weighed the materials on record for coming to the conclusion that charge against the respondents could not have been framed. It is settled law that at the stage of framing the charge, the court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate the evidence and arrive at the conclusion that the materials produced are sufficient or not for convicting the accused. If the court is satisfied that a prima facie case is made out for proceeding further then a charge has to be framed. The charge can be quashed if the evidence which the prosecutor proposes to adduce to prove the guilt

of the accused, even if fully accepted before it is challenged by cross-examination or rebutted by defence evidence, if any, cannot show that the accused committed the particular offence. In such case, there would be no sufficient ground for proceeding with the trial. In *Niranjan Singh Karam Singh Punjabi v. Jitendra Bhimraj Bijjaya* [(1990) 4 SCC 76 : 1991 SCC (Cri) 47] after considering the provisions of Sections 227 and 228 CrPC, the Court posed a question, whether at the stage of framing the charge, the trial court should marshal the materials on the record of the case as he would do on the conclusion of the trial. The Court held that at the stage of framing the charge inquiry must necessarily be limited to deciding if the facts emerging from such materials constitute the offence with which the accused could be charged. The court may peruse the records for that limited purpose, but it is not required to marshal it with a view to decide the reliability thereof. The Court referred to earlier decisions in *State of Bihar v. Ramesh Singh* [(1977) 4 SCC 39 : 1977 SCC (Cri) 533], *Union of India v. Prafulla Kumar Samal* [(1979) 3 SCC 4 : 1979 SCC (Cri) 609] and *Supdt. & Remembrancer of Legal Affairs, W.B. v. Anil Kumar Bhunja* [(1979) 4 SCC 274 : 1979 SCC (Cri) 1038] and held thus: (SCC p. 85, para 7) "From the above discussion it seems well settled that at the Sections 227-228 stage the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. The court may for

this limited purpose sift the evidence as it cannot be expected even at the initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case."

(emphasis supplied)

6. In our view the aforesaid exercise of appreciating the materials produced by the prosecution at the stage of framing of the charge is wholly unjustified. The entire approach of the High Court appears to be as if the Court was deciding the case as to whether the accused are guilty or not. It was done without considering the allegations of conspiracy relating to the charge under Section 120-B. In most of the cases, it is only from the available circumstantial evidence an inference of conspiracy is to be drawn. Further, the High Court failed to consider that medicines are normally sold at a fixed price and in any set of circumstances, it was for the prosecution to lead necessary evidence at the time of trial to establish its case that purchase of medicines for the Cancer Hospital at Indore was at a much higher price than the prevailing market rate. Further again non-joining of the two remaining members to the Purchase Committee cannot be a ground for quashing the charge. After framing the charge and recording the evidence, if the Court finds that other members of the Purchase Committee were also involved, it is open to the Court to exercise its power under Section

319 of the Criminal Procedure Code. Not only that, the Court erroneously considered the alleged statement of the manufacturing company that quotations given by M/s Allied Medicine Agency, Indore were genuine without there being any cross-examination. The High Court ignored the allegation that many of the items have not been purchased and the amount is paid on bogus vouchers. Hence, there was no justifiable reason for the High Court to quash the charge framed by the trial court." (emphasis supplied.)

19. In *Om Wati v. State thr. Delhi Administration* (supra), the Hon'ble Supreme Court, whilst placing reliance on the decisions in *Anil Kumar Bhunja* (supra), *State of Bihar v. Ramesh Singh* (supra) and *Kanti Bhadra Shah* (supra), upheld the order of the Trial Court for framing charges and rendered the following observations:

"7. Section 227 of the Code provides that if upon consideration of record of the case and the documents submitted therewith, the Judge considers that there is no sufficient ground for proceeding against the accused, he shall discharge the accused for which he is required to record his reasons for so doing. No reasons are required to be recorded when the charges are framed against the accused persons. This Court in *Kanti Bhadra Shah v. State of W.B.* [(2000) 1 SCC 722 : 2000 SCC (Cri) 303] held that there is no legal requirement that the trial court should write an order showing the reasons for framing a charge. Taking note of the burden of the pending cases on the courts,

it was held: (SCC pp. 725-26, paras 11-12) "11. Even in cases instituted otherwise than on a police report the Magistrate is required to write an order showing the reasons only if he is to discharge the accused. This is clear from Section 245. As per the first sub-section of Section 245, if a Magistrate, after taking all the evidence considers that no case against the accused has been made out which if unrebutted would warrant his conviction, he shall discharge the accused. As per sub-section (2) the Magistrate is empowered to discharge the accused at any previous stage of the case if he considers the charge to be groundless. Under both sub-sections he is obliged to record his reasons for doing so. In this context it is pertinent to point out that even in a trial before a Court of Session, the Judge is required to record reasons only if he decides to discharge the accused (vide Section 227 of the Code). But if he is to frame the charge he may do so without recording his reasons for showing why he framed the charge.

12. If there is no legal requirement that the trial court should write an order showing the reasons for framing a charge, why should the already burdened trial courts be further burdened with such an extra work. The time has reached to adopt all possible measures to expedite the court procedures and to chalk out measures to avert all roadblocks causing avoidable delays. If a Magistrate is to write detailed orders at different stages merely because the counsel would address arguments at all stages, the snail-paced progress of proceedings in trial courts would further be slowed down. We are coming across

interlocutory orders of Magistrates and Sessions Judges running into several pages. We can appreciate if such a detailed order has been passed for culminating the proceedings before them. But it is quite unnecessary to write detailed orders at this stage, such as issuing process, remanding the accused to custody, framing of charges, passing over to next stages in the trial. It is a salutary guideline that when orders rejecting or granting bail are passed, the court should avoid expressing one way or the other on contentious issues, except in cases such as those falling within Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985."

8. At the stage of passing the order in terms of Section 227 of the Code, the court has merely to peruse the evidence in order to find out whether or not there is a sufficient ground for proceeding against the accused. If upon consideration, the court is satisfied that a prima facie case is made out against the accused, the Judge must proceed to frame charge in terms of Section 228 of the Code. Only in a case where it is shown that the evidence which the prosecution proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by defence evidence cannot show that the accused committed the crime, then and then alone the court can discharge the accused. The court is not required to enter into meticulous consideration of evidence and material placed before it at this stage. This Court in *Stree Atyachar Virodhi Parishad v.*

Dilip Nathumal Chordia [(1989) 1 SCC 715 : 1989 SCC (Cri) 285] cautioned the High Courts to be loath in interfering at the stage of framing the charges against the accused. Self-restraint on the part of the High Court should be the rule unless there is a glaring injustice staring the court in the face. The opinion on many matters can differ depending upon the person who views it. There may be as many opinions on a particular point, as there are courts but that would not justify the High Court to interdict the trial. Generally, it would be appropriate for the High Court to allow the trial to proceed.

9. Dealing with the scope of Sections 227 and 228 of the Code and the limitations imposed upon the court at the initial stage of framing the charge, this Court in *State of Bihar v. Ramesh Singh* [(1977) 4 SCC 39 : 1977 SCC (Cri) 533 : AIR 1977 SC 2018] held: (SCC pp. 41-42, para 4) "Reading the two provisions together in juxtaposition, as they have got to be, it would be clear that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the Prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the Judge at that stage of the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is

not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the Code. At that stage the court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the court to think that there is ground for presuming that the accused has committed an offence then it is not open to the court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is only for the purpose of deciding prima facie whether the court should proceed with the trial or not. If the evidence which the Prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence, if any, cannot show that the accused committed the offence, then there will be no sufficient ground for proceeding with the trial. An exhaustive list of the circumstances to indicate as to what will lead to one conclusion or the other is neither possible nor advisable. We may just illustrate the difference of the law by one more example. If the scales of pan as to the guilt or innocence of the accused are something like even at the conclusion of the trial,

then, on the theory of benefit of doubt the case is to end in his acquittal. But if, on the other hand, it is so at the initial stage of making an order under Section 227 or Section 228, then in such a situation ordinarily and generally the order which will have to be made will be one under Section 228 and not under Section 227."

10. A three-Judge Bench of this Court in Supdt. & Remembrancer of Legal Affairs, W.B. v. Anil Kumar Bhunja [(1979) 4 SCC 274 : 1979 SCC (Cri) 1038 : AIR 1980 SC 52] reminded the courts that at the initial stage of framing of charges, the prosecution evidence does not commence. The court has, therefore, to consider the question of framing the charges on general considerations of the material placed before it by the investigating agency. At this stage, the truth, veracity and effect of the judgment which the prosecution proposes to adduce are not to be meticulously judged. The standard of test, proof and judgment which is to be applied finally before finding an accused guilty or otherwise is not exactly to be applied at the stage of framing the charge. Even on the basis of a strong suspicion founded on materials before it, the court can form a presumptive opinion regarding the existence of factual ingredients constituting the offence alleged and in that event be justified in framing the charges against the accused in respect of the commission of the offence alleged to have been committed by them. Relying upon its earlier judgments in Ramesh Singh [(1977) 4 SCC 39 : 1977 SCC (Cri) 533 : AIR 1977 SC 2018]

and Anil Kumar Bhunja cases [(1979) 4 SCC 274 : 1979 SCC (Cri) 1038 : AIR 1980 SC 52] this Court again in Satish CRL.REV.P. 262/2016, Mehra v. Delhi Admn. [(1996) 9 SCC 766 : 1996 SCC (Cri) 1104] reiterated: (SCC pp. 769-70, para 9) "9. Considerations which should weigh with the Sessions Court at this stage have been well designed by Parliament through Section 227 of the Code of Criminal Procedure (for short 'the Code') which reads thus:

'227. Discharge.--If, upon consideration of the record of the case and the documents submitted therewith, and after hearing the submissions of the accused and the prosecution in this behalf, the Judge considers that there is not sufficient ground for proceeding against the accused, he shall discharge the accused and record his reasons for so doing.' Section 228 contemplates the stage after the case survives the stage envisaged in the former section. When the court is of opinion that there is ground to presume that the accused has committed an offence the procedure laid down therein has to be adopted. When those two sections are put in juxtaposition with each other the test to be adopted becomes discernible: Is there sufficient ground for proceeding against the accused? It is axiomatic that the standard of proof normally adhered to at the final stage is not to be applied at the stage where the scope of consideration is where there is 'sufficient ground for proceeding'."

12. We allow this appeal by setting aside the order of the High Court and upholding the order of the trial court. We would again remind the High Courts of their statutory obligation to not to interfere at the initial stage of framing the charges merely on hypothesis, imagination and far-fetched reasons which in law amount to interdicting the trial against the accused persons. Unscrupulous litigants should be discouraged from protracting the trial and preventing culmination of the criminal cases by having resort to uncalled-for and unjustified litigation under the cloak of technicalities of law."

(emphasis supplied.)

20. Whilst dealing with an order on charge, the Hon'ble Supreme Court in *Soma Chakravarty v. State through CBI*, reported as (2007) 5 SCC 403, relied upon the principles laid down in *Union of India v. Major J.S. Khanna*, reported as (1972) 3 SCC 873; *State of Maharashtra v. Som Nath Thapa*, (supra); and *L. Chandraiah v. State of A.P.*, reported as (2003) 12 SCC 670 and held as follows on the scope of powers of the Court whilst framing charges:

"10. The settled legal position is that if on the basis of material on record the Court could form an opinion that the accused might have committed offence it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence. At the time of framing of the

charges the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution has to be accepted as true... Before framing a charge the court must apply its judicial mind on the material placed on record and must be satisfied that the commission of offence by the accused was possible. Whether, in fact, the accused committed the offence, can only be decided in the trial. *****

19. Charge may although be directed to be framed when there exists a strong suspicion but it is also trite that the Court must come to a prima facie finding that there exist some materials therefor. Suspicion alone, without anything more, cannot form the basis therefor or held to be sufficient for framing charge."

(emphasis supplied.)

21. In *Sheoraj Singh Ahlawat & ors. v. State of Uttar Pradesh* reported as (2013) 11 SCC 476, the Hon'ble Supreme Court discussed the legal position with respect to framing of charges as hereunder:

"15. ...This Court explained the legal position and the approach to be adopted by the Court at the stage of framing of charges or directing discharge in the following words: (*Onkar Nath Mishra v. State (NCT) of Delhi*, (2008) 2 SCC 561) "11. It is trite that at the stage of framing of charge the court is required to evaluate the material and documents on record with a view to finding out if the facts emerging therefrom,

taken at their face value, disclosed the existence of all the ingredients constituting the alleged offence. At that stage, the court is not expected to go deep into the probative value of the material on record. What needs to be considered is whether there is a ground for presuming that the offence has been committed and not a ground for convicting the accused has been made out. At that stage, even strong suspicion founded on material which leads the court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged would justify the framing of charge against the accused in respect of the commission of that offence."

(emphasis supplied)

16. Support for the above view was drawn by this Court from earlier decisions rendered in *State of Karnataka v. L. Muniswamy* 1977 Cri.LJ 1125, *State of Maharashtra & Ors. v. Som Nath Thapa and Ors.* 1996 Cri.LJ 2448 and *State of M.P. v. Mohanlal Soni* 2000 Cri.LJ 3504. In *Som Nath's* case (*supra*) the legal position was summed up as under:

"32. ...if on the basis of materials on record, a court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the court were to think that the accused might have* committed the offence it can frame the charge, though for conviction the conclusion is required

to be that the accused has* committed the offence. It is apparent that at the stage of framing of a charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage." (emphasis supplied)

17. So also in Mohanlal case (supra) this Court referred to several previous decisions and held that the judicial opinion regarding the approach to be adopted for framing of charge is that such charges should be framed if the Court prima facie finds that there is sufficient ground for proceeding against the accused. The Court is not required to appreciate evidence as if to determine whether the material produced was sufficient to convict the accused. The following passage from the decision in Mohanlal case (supra) is in this regard apposite:

"8. The crystallized judicial view is that at the stage of framing charge, the court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate evidence to conclude whether the materials produced are sufficient or not for convicting the accused.""

(emphasis supplied.)

22. The Hon'ble Supreme Court in Duli Chand v. Delhi Administration reported as (1975) 4 SCC 649, observed as hereunder:

"4. ... Now the jurisdiction of the High Court in a criminal revision application is severely restricted and it cannot embark upon a reappreciation of the evidence, but even so, the learned Single Judge of the High Court who heard the revision application, examined the evidence afresh at the instance of the appellant. This was, however, of no avail, as the learned Single Judge found that the conclusion reached by the lower courts that the appellant was guilty of gross negligence, was correct and there was no reason to interfere with the conviction of the appellant. The learned Single Judge accordingly confirmed the conviction and sentence recorded against the appellant and dismissed the revision application. Hence the present appeal by special leave obtained from this Court.

5. Now it is obvious that the question of whether the appellant was guilty of negligence in driving the bus and the death of the deceased was caused on account of his negligent driving is a question of fact which depends for its determination on an appreciation of the evidence. Both the learned Magistrate trying the case at the original stage and the learned Additional Sessions Judge hearing the appeal arrived, on an assessment of the evidence, at a concurrent finding of fact that the death of the deceased was caused by negligent driving of the bus by the appellant. The High Court in revision was exercising supervisory jurisdiction of a restricted nature and, therefore, it would have been justified in refusing to reappreciate the evidence for the purposes of determining whether the concurrent finding of fact

reached by the learned Magistrate and the learned Additional Sessions Judge was correct. But even so, the High Court reviewed the evidence presumably for the purpose of satisfying itself that there was evidence in support of the finding of fact reached by the two subordinate courts and that the finding of fact was not unreasonable or perverse. The High Court came to the conclusion that the evidence clearly established that the death of the deceased was caused on account of the negligent driving of the bus by the appellant. When three courts have, on an appreciation of the evidence, arrived at a concurrent finding of fact in regard to the guilt of the appellant, it is difficult to see how this Court can, in the exercise of its extraordinary jurisdiction under Article 136 of the Constitution, interfere with such finding of fact. We have had occasion to say before and we may emphasise it once again, that this Court is not a regular court of appeal to which every judgment of the High Court in criminal case may be brought up for scrutinising its correctness. It is not the practice of this Court to reappreciate the evidence for the purpose of examining whether the finding of fact concurrently arrived at by the High Court and the subordinate courts is correct or not. It is only in rare and exceptional cases where there is some manifest illegality or grave and serious miscarriage of justice that this Court would interfere with such finding of fact. Here, not only is the appreciation of the oral evidence by the learned Magistrate, the learned Additional Sessions Judge and the High Court eminently correct, but there are certain tell-tale

circumstances which clearly support the finding of fact reached by them."

(emphasis supplied.)

23. In Sheonandan Paswan v. State of Bihar, (supra) the Hon'ble Supreme Court opined that the provisions of section 397 of the CrPC give the High Court jurisdiction to consider the correctness, legality or propriety of any finding, sentence or order and as to the regularity of the proceedings of any inferior court. This jurisdiction ought to be exercised, normally, CRL.REV.P. 262/2016, CRL.REV.P. 263/2016, CRL.REV.P. 264/2016 & CRL.REV.P. 265/2016 without dwelling at length upon the facts and evidence of the case. The Court in revision ought to consider the materials only to satisfy itself about the correctness, legality and propriety of the findings, sentence or order and refrain from substituting its own conclusion on an elaborate consideration of evidence.

24. The Delhi High Court, in an unreported decision in Veena Ajmani v. State & ors. rendered in Criminal Revision Petition No. 281 of 2012; and Criminal Revision Petition No. 282 of 2012, where final orders on charge had been assailed, observed as hereunder:

"28. The Supreme Court in P. Vijayan vs State of Kerala and Another, reported at (2010) 2 SCC 398 has held that the consideration of the

court at the stage of framing of charges is for the limited purpose of ascertaining whether or not there is sufficient ground for proceeding against the accused. Whether the material in the hands of the prosecution is sufficient or not are matters of trial. Moreover, the issue whether the trial will end in conviction or acquittal is also immaterial. The relevant portion of the decision is as reproduced below:

12. ...This Court has thus held that whereas strong suspicion may not take the place of the proof at the trial stage, yet it may be sufficient for the satisfaction of the Trial Judge in order to frame a charge against the accused.

25. As discussed earlier, Section 227 in the new Code confers special power on the Judge to discharge an accused at the threshold if upon consideration of the records and documents, he find that "there is not sufficient ground" for proceeding against the accused. In other words, his consideration of the record and document at that stage is for the limited purpose of ascertaining whether or not there is sufficient ground for proceeding against the accused. If the Judge comes to a conclusion that there is sufficient ground to proceed, he will frame a charge under Section 228, if not, he will discharge the accused. This provision was introduced in the Code to avoid wastage of public time when a prima facie case was not disclosed and to save the accused from avoidable harassment and expenditure.

26. In the case on hand, though, the learned Trial Judge has not assigned detailed reasons for dismissing the discharge petition filed under Section 227, it is clear from his order that after consideration of the relevant materials charge had been framed for offence under Section 302 read with Section 34 IPC and because of the same, he dismissed the discharge petition. After evaluating the materials produced by the prosecution and after considering the probability of the case, the Judge being satisfied by the existence of sufficient grounds against the appellant and another accused framed a charge. Whether the materials at the hands of the prosecution are sufficient or not are matters for trial. At this stage, it cannot be claimed that there is no sufficient ground for proceeding against the appellant and discharge is the only remedy. Further, whether the trial will end in conviction or acquittal is also immaterial. All these relevant aspects have been carefully considered by the High Court and it rightly affirmed the order passed by the Trial Judge dismissing the discharge petition filed by A3-appellant herein. We fully agree with the said conclusion.""

(Emphasis supplied.)

25. The Hon'ble Supreme Court in *Ashish Chadha v. Asha Kumari* (supra) upheld the order on charge; and held that the High Court overstepped its revisional jurisdiction by appraising the evidence in the case. In this regard, it was further observed as follows:

"20. ... It is the trial court which has to decide whether evidence on record is sufficient to make out a prima facie case against the accused so as to frame charge against him. Pertinently, even the trial court cannot conduct roving and fishing inquiry into the evidence. It has only to consider whether the evidence collected by the prosecution discloses prima facie case against the accused or not."

26. In State of Tamil Nadu v. Mariya Anton Vijay (supra) the Hon'ble Supreme Court, whilst setting aside the order of the High Court, observed that the approach of the High Court, in exercise of its inherent powers and under section 397 of CrPC, was wholly unwarranted and illegal. It was further observed that the order had been rendered by overlooking the principles laid down by the Hon'ble Supreme Court in State of M.P. v. S.B. Johari (supra), inasmuch as by way of its order, the High Court went into the questions of fact, appreciated the materials produced in support of the charge-sheet, drew inference on reading the statements of the accused, and applied the law, which according to the High Court, had application to the facts of the case; and then came to a conclusion that no prima facie case had been made out against any of the accused for their prosecution.

27. The Hon'ble Supreme Court in Palwinder Singh v. Balwinder Singh (supra), dealt with the decision of the High Court in a revision application, observed that, (i) the High Court committed a serious error in rendering the decision, insofar as it entered into the

realm of appreciation of evidence at the stage of the framing of the charges itself; (ii) the jurisdiction of the learned Sessions Judge while exercising power under Section 227 of the CrPC is limited; (iii) charges can be framed on the basis of strong suspicion; and (iv) marshalling and appreciation of evidence is not in the domain of the Court at that point of time.

28. The Hon'ble Supreme Court in *Amit Kapoor v. Ramesh Chander & anr.* (supra), on the question of the powers of the High Court in exercise of its revisional and inherent jurisdiction, whilst dealing with a challenge to an order framing charges, was pleased to lay down the following legal principles:

"25. Having examined the interrelationship of these two very significant provisions of the Code, let us now examine the scope of interference under any of these provisions in relation to quashing the charge. We have already indicated above that framing of charge is the first major step in a criminal trial where the court is expected to apply its mind to the entire record and documents placed therewith before the court. Taking cognizance of an offence has been stated to necessitate an application of mind by the court but framing of charge is a major event where the court considers the possibility of discharging the accused of the offence with which he is charged or requiring the accused to face trial. There are different categories of cases where the court may not proceed with the trial and may discharge the accused or pass such

other orders as may be necessary keeping in view the facts of a given case. In a case where, upon considering the record of the case and documents submitted before it, the court finds that no offence is made out or there is a legal bar to such prosecution under the provisions of the Code or any other law for the time being in force and there is a bar and there exists no ground to proceed against the accused, the court may discharge the accused. There can be cases where such record reveals the matter to be so predominantly of a civil nature that it neither leaves any scope for an element of criminality nor does it satisfy the ingredients of a criminal offence with which the accused is charged. In such cases, the court may discharge him or quash the proceedings in exercise of its powers under these two provisions.

26. This further raises a question as to the wrongs which become actionable in accordance with law. It may be purely a civil wrong or purely a criminal offence or a civil wrong as also a criminal offence constituting both on the same set of facts. But if the records disclose commission of a criminal offence and the ingredients of the offence are satisfied, then such criminal proceedings cannot be quashed merely because a civil wrong has also been committed. The power cannot be invoked to stifle or scuttle a legitimate prosecution. The factual foundation and ingredients of an offence being satisfied, the court will not either dismiss a complaint or quash such proceedings in exercise of its inherent or original jurisdiction. In *Indian Oil Corpn. v. NEPC India Ltd.* [(2006) 6 SCC 736 : (2006) 3 SCC (Cri) 188] this

Court took the similar view and upheld the order of the High Court declining to quash the criminal proceedings because a civil contract between the parties was pending.

27. Having discussed the scope of jurisdiction under these two provisions i.e. Section 397 and Section 482 of the Code and the fine line of jurisdictional distinction, now it will be appropriate for us to enlist the principles with reference to which the courts should exercise such jurisdiction. However, it is not only difficult but is inherently impossible to state with precision such principles. At best and upon objective analysis of various judgments of this Court, we are able to cull out some of the principles to be considered for proper exercise of jurisdiction, particularly, with regard to quashing of charge either in exercise of jurisdiction under Section 397 or Section 482 of the Code or together, as the case may be:

27.1. Though there are no limits of the powers of the Court under Section 482 of the Code but the more the power, the more due care and caution is to be exercised in invoking these powers. The power of quashing criminal proceedings, particularly, the charge framed in terms of Section 228 of the Code should be exercised very sparingly and with circumspection and that too in the rarest of rare cases. 27.2. The Court should apply the test as to whether the uncontroverted allegations as made from the record of the case and the documents submitted therewith prima facie establish the offence or not. If the allegations are so patently absurd and inherently improbable that no

prudent person can ever reach such a conclusion and where the basic ingredients of a criminal offence are not satisfied then the Court may interfere.

27.3. The High Court should not unduly interfere. No meticulous examination of the evidence is needed for considering whether the case would end in conviction or not at the stage of framing of charge or quashing of charge.

27.4. Where the exercise of such power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts even in such cases, the High Court should be loath to interfere, at the threshold, to throttle the prosecution in exercise of its inherent powers.

27.5. Where there is an express legal bar enacted in any of the provisions of the Code or any specific law in force to the very initiation or institution and continuance of such criminal proceedings, such a bar is intended to provide specific protection to an accused. 27.6. The Court has a duty to balance the freedom of a person and the right of the complainant or prosecution to investigate and prosecute the offender.

27.7. The process of the court cannot be permitted to be used for an oblique or ultimate/ulterior purpose.

27.8. Where the allegations made and as they appeared from the record and documents annexed therewith to predominantly give rise

and constitute a "civil wrong" with no "element of criminality" and does not satisfy the basic ingredients of a criminal offence, the court may be justified in quashing the charge. Even in such cases, the court would not embark upon the critical analysis of the evidence. 27.9. Another very significant caution that the courts have to observe is that it cannot examine the facts, evidence and materials on record to determine whether there is sufficient material on the basis of which the case would end in a conviction; the court is concerned primarily with the allegations taken as a whole whether they will constitute an offence and, if so, is it an abuse of the process of court leading to injustice. 27.10. It is neither necessary nor is the court called upon to hold a full-fledged enquiry or to appreciate evidence collected by the investigating agencies to find out whether it is a case of acquittal or conviction.

27.11. Where allegations give rise to a civil claim and also amount to an offence, merely because a civil claim is maintainable, does not mean that a criminal complaint cannot be maintained.

27.12. In exercise of its jurisdiction under Section 228 and/or under Section 482, the Court cannot take into consideration external materials given by an accused for reaching the conclusion that no offence was disclosed or that there was possibility of his acquittal. The Court has to consider the record and documents annexed therewith by the prosecution. 27.13. Quashing of a charge is an exception to the

rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed *prima facie*. 27.14. Where the charge-sheet, report under Section 173(2) of the Code, suffers from fundamental legal defects, the Court may be well within its jurisdiction to frame a charge.

27.15. Coupled with any or all of the above, where the Court finds that it would amount to abuse of process of the Code or that the interest of justice favours, otherwise it may quash the charge. The power is to be exercised *ex debito justitiae* i.e. to do real and substantial justice for administration of which alone, the courts exist.

[Ref. State of W.B. v. Swapan Kumar Guha [(1982) 1 SCC 561 : 1982 SCC (Cri) 283 : AIR 1982 SC 949] ; Madhavrao Jiwajirao Scindia v. Sambhajirao Chandojirao Angre [(1988) 1 SCC 692 : 1988 SCC (Cri) 234] ; Janata Dal v. H.S. Chowdhary [(1992) 4 SCC 305 : 1993 SCC (Cri) 36 : AIR 1993 SC 892] ; Rupan Deol Bajaj v. Kanwar Pal Singh Gill [(1995) 6 SCC 194 : 1995 SCC (Cri) 1059] ; G. Sagar Suri v. State of U.P. [(2000) 2 SCC 636 : 2000 SCC (Cri) 513] ; Ajay Mitra v. State of M.P. [(2003) 3 SCC 11 : 2003 SCC (Cri) 703] ; Pepsi Foods Ltd. v. Special Judicial Magistrate [(1998) 5 SCC 749 : 1998 SCC (Cri) 1400 : AIR 1998 SC 128] ; State of U.P. v. O.P. Sharma [(1996) 7 SCC 705

: 1996 SCC (Cri) 497] ; Ganesh Narayan Hegde v. S. Bangarappa [(1995) 4 SCC 41 : 1995 SCC (Cri) 634] ; Zandu Pharmaceutical Works Ltd. v. Mohd. Sharaful Haque [(2005) 1 SCC 122 : 2005 SCC (Cri) 283] ; Medchl Chemicals & Pharma (P) Ltd. v. Biological E. Ltd. [(2000) 3 SCC 269 : 2000 SCC (Cri) 615 : AIR 2000 SC 1869] ; Shakson Belthissor v. State of Kerala [(2009) 14 SCC 466 : (2010) 1 SCC (Cri) 1412] ; V.V.S. Rama Sharma v. State of U.P. [(2009) 7 SCC 234 : (2009) 3 SCC (Cri) 356] ; Chunduru Siva Ram Krishna v. Peddi Ravindra Babu [(2009) 11 SCC 203 : (2009) 3 SCC (Cri) 1297] ; Sheonandan Paswan v. State of Bihar [(1987) 1 SCC 288 : 1987 SCC (Cri) 82] ; State of Bihar v. P.P. Sharma [1992 Supp (1) SCC 222 : 1992 SCC (Cri) 192 : AIR 1991 SC 1260] ; Lalmuni Devi v. State of Bihar [(2001) 2 SCC 17 : 2001 SCC (Cri) 275] ; M. Krishnan v. Vijay Singh [(2001) 8 SCC 645 : 2002 SCC (Cri) 19] ; Savita v. State of Rajasthan [(2005) 12 SCC 338 : (2006) 1 SCC (Cri) 571] and S.M. Datta v. State of Gujarat [(2001) 7 SCC 659 : 2001 SCC (Cri) 1361 : 2001 SCC (L&S) 1201] .] 27.16. These are the principles which individually and preferably cumulatively (one or more) be taken into consideration as precepts to exercise of extraordinary and wide plenitude and jurisdiction under Section 482 of the Code by the High Court. Where the factual foundation for an offence has been laid down, the courts should be reluctant and should not hasten to quash the proceedings even on the premise that one or two ingredients have not

been stated or do not appear to be satisfied if there is substantial compliance with the requirements of the offence."

(Emphasis supplied.)

29. Considering the conspectus of the decisions discussed hereinabove, the following legal position emerges with regard to the law on charge; the revisional jurisdiction of the High Court; and the powers exercisable by the High Court in revisional jurisdiction whilst dealing with an order on charge:

(i) The jurisdiction of the Trial Court whilst exercising power under Section 397 of the CrPC is limited.

(ii) At the stage of charge, the Trial Court has to merely peruse the evidence in order to find out whether there is a sufficient ground for proceeding against the accused or not.

(iii) If upon consideration of the material placed before it, the Trial Court is satisfied that a prima facie case is made out against the accused, it must proceed to frame charge in terms of Section 228 of the CrPC.

(iv) The Trial Court cannot conduct a roving and fishing inquiry into the evidence or a meticulous consideration thereof at this stage. Marshalling and appreciation of evidence, and going into the probative value of the material on record, is not in the domain of the Court at the time of framing of charges.

(v) In other words, at the beginning and the initial stage of the trial, the truth, veracity and effect of the evidence which the prosecution proposes to adduce are not to be meticulously judged, and nor is any weight to be attached to the probable defence of the accused. Thus, a 'mini trial' is not to be conducted.

(vi) It is not obligatory for the Trial Court at the time of framing of charges, to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at the stage of deciding the matter under Section 227 or Section 228 of the CrPC.

(vii) Thus, it is axiomatic that at the initial stage if there is a strong/grave suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence, then it is not open to the court to say that there is no sufficient ground for proceeding against the accused.

(viii) The Trial Court may sift the evidence to determine whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence or not.

(ix) Detailed orders are not necessary whilst framing charges and contentious issues are not required to be answered by the Trial Court at the stage of framing of charges.

(x) Only in a case where it is shown that the evidence which the prosecution proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by defence evidence cannot show that the accused committed the crime, then and then alone the Court can discharge the accused.

(xi) Further, if the scales of pan as to the guilt or innocence of the accused are something like even at the initial stage of making an order under Section 227 or Section 228, then, in such a situation, ordinarily and generally, the order which will have to be made will be one under Section 228 and not under Section 227 of the CrPC.

(xii) The provisions of section 397 of the CrPC empower the High Court with supervisory jurisdiction to consider the correctness, legality or propriety of any finding, sentence or order and as to the regularity of the proceedings of any inferior court.

(xiii) Revisional jurisdiction is severely restricted, and ought not to be exercised in a routine and casual manner. It has to be exercised, normally, without dwelling at length upon the facts and appraising the evidence of the case.

(xiv) Further, the Court in revision ought to refrain from substituting its own conclusion on an elaborate consideration of evidence.

(xv) Whilst in revisional jurisdiction, the High Court cannot enter into the realm of appreciation of evidence at the stage of the framing of the charges itself.

(xvi) The High Court, under statutory obligation, ought to be loath in interfering at the stage of framing the charges against the accused, merely on hypothesis, imagination and far-fetched reasons which in law amount to interdicting the trial against the accused person. Thus, self-restraint on the part of the High Court should be the rule unless there is a glaring injustice staring the Court in the face.

(xvii) Revisional powers could be exercised only when it is shown that, (a) there is a legal bar against the continuance of the criminal proceedings; (b) the framing of charge or the facts as stated in the first information report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged;

(c) where the exercise of revisional power is absolutely essential to prevent patent miscarriage of justice and for correcting some grave error that might be committed by the subordinate courts.

(xviii) Quashing of a charge is an exception to the rule of continuous prosecution. Where the offence is even broadly satisfied, the Court should be more inclined to permit continuation of prosecution rather than its quashing at that initial stage. The Court is not expected to marshal the records with a view to decide admissibility and reliability of the documents or records but is an opinion formed *prima facie*.

30. Further, there are two branches of evidence in a criminal case, direct evidence and circumstantial evidence. In relation to the often-reviled circumstantial evidence, the American philosopher and author, Mr. Henry David Thoreau, [Journal, November 11, 1850] wrote as follows:

'Some circumstantial evidence is very strong, as when you find trout in the milk.'

31. If we had lived in Thoreau's time, when there were no health department regulations and consumer protection agencies to oversee the contents of milk and when it was a common practice by milk suppliers to increase the volume of the milk by adding water, we would have well understood that a trout in our milk would strongly suggest that our milk supplier had added water from a nearby stream. These are the natural inferences which Courts are called upon to draw on the basis of circumstantial evidence. Cases of direct evidence, on the other hand, are as plain as the nose on one's face. Whatever one

perceives with any of his physical senses is direct evidence and every other piece of evidence is circumstantial.

32. On the basis of the above discussion and in view of the statements of the witnesses specially the parents and friends of the deceased, in my view, *prima facie*, there was sufficient ground for proceeding against the Revisionist. Further, there is adequate material for presuming that the Revisionist had committed the offences for which he has been charged. Therefore, the Ld. Trial Court cannot be faulted for forming a presumptive opinion regarding the existence of the factual ingredients constituting the offences alleged, and for the framing of charges on the basis of a strong suspicion founded on the material hereinbefore elaborated.

33. In view of the foregoing; the decisions relied upon by the Revisionists in (1) ***R. Mohan v. State [Criminal Appeal No. 611 of 2011]***; (2) ***(2002) 5 SCC 371, Sohan Raj Sharma v. State of Haryana [Criminal Appeal No. 1464 of 2007]*** and ***Kishori Lal v. State of MP [Criminal Appeal No. 1115 of 1999]***; (3) ***Dilawa Babu Kurane v. State of Maharastra : (2002) 2 SCC 135***; (4) ***Suresh v. State of Maharastra: AIR 2001 SC 1375***; (5) ***State of MP v. Mohanlal Soni : AIR 2000 SC 2583*** and (6) ***Shyam Sunder Sharma v. State : 2002 CrLJ 517 (Del)*** do not advance the case of the Revisionist or come to his aid, in as much as, the revisional

powers may be exercised only when it is considered absolutely essential so to do, in order to prevent patent miscarriage of justice or to correct some grave error. In ***Amit Kapoor v. Ramesh Chander (supra)***, the Hon'ble Supreme Court clearly postulated that the High Court, whilst exercising revisional jurisdiction should be loath to interfere at the threshold to throttle the prosecution in exercise of its powers. The High Courts were directed not to interfere unduly, or to determine whether there was sufficient material to conclude that the case would end in a conviction. The Courts were further directed, at the stage of framing of charges, to be concerned primarily with, whether the allegations taken as a whole would constitute the commission of an offence. The Courts were also instructed to be more inclined to permit the continuation of prosecution, rather than venture into the realm of a full- fledged appreciation of evidence.

34. For the reasons aforesaid, I am of the opinion that the learned Trial Court proceeded correctly, in exercise of its powers, to frame charges against the Revisionist. The materials on record give rise to strong suspicion that the Revisionist committed the offences for which the charges were framed against him by way of the impugned order.

35. Consequently, there exist no circumstances to warrant interference with the impugned order by this Court in exercise of its revisional jurisdiction.

36. The present Criminal Revision Petition is accordingly dismissed, with no order as to costs.

37. The learned Trial Court is directed to proceed further with the trial, in accordance with law.

38. The Trial Court Records be sent back, forthwith.

CHIEF JUSTICE

FR/NFR

Sushil